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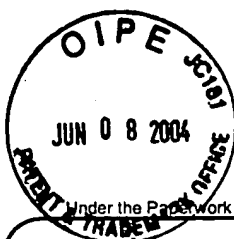
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High Flow Water Supply-  
Ostrowski

(06-03)

Approved for use through 11/30/2005. OMB 0651-0035  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**POWER OF ATTORNEY  
and  
CORRESPONDENCE ADDRESS  
INDICATION FORM**

Application Number	10/720,718
Filing Date	November 24, 2003
First Named Inventor	Michael H. Ostrowski
Title	High Flow Rate Water Supply Assembly
Art Unit	3751
Examiner Name	
Attorney Docket Number	550299.00070

I hereby appoint:

☒ Practitioners at Customer Number:

26710

OR

☐ Practitioner(s) named below:

Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

☐ The above-mentioned Customer Number:

OR

☐ The address associated with Customer Number:

OR

☐ Firm or  
Individual Name

Address

Address

City

State

Zip

Country

Telephone

Fax

I am the:

☐ Applicant/Inventor.

☒ Assignee of record of the entire interest. See 37 CFR 3.71.  
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

**SIGNATURE of Applicant or Assignee of Record**

Name Natalie A. Black

Signature *Natalie A. Black*

Date April 19, 2004

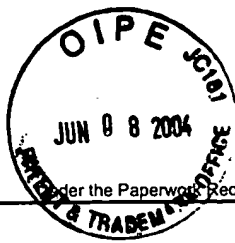
Telephone (920) 457-4441

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☒ \*Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.31 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. 550299.00070 MKE15498370

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



High Flow Water Supply -  
Ostrowski

(04-03)  
Approved for use through 04/30/2003. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**STATEMENT UNDER 37 CFR 3.73(b)**

Applicant/Patent Owner: Michael H. Ostrowski et al.

Application No./Patent No.: 10/720,718 Filed/Issue Date: November 24, 2003

Entitled: High Flow Rate Water Supply Assembly

Kohler Co., a Wisconsin corporation  
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.  
The extent (by percentage) of its ownership interest is \_\_\_\_\_ %  
in the patent application/patent identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
2. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
3. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignments or other documents in the chain of title are attached.  
[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

April 19, 2004  
Date  
(920) 457-4441  
Telephone number

Natalie A. Black  
Typed or printed name  
Natalie A. Black  
Signature

Secretary  
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Doc. No. MKE/5498374

550299.00070

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

## ASSIGNMENT

WHEREAS, we, Jeffrey L. Mueller of Plymouth, Wisconsin, James R. Lewis of Kohler, Wisconsin, Stanley P. Kaymen of Sheboygan, Wisconsin, and John H. Schott of Sheboygan, Wisconsin, along with Michael H. Ostrowski of Lake Forest, Illinois, have made certain inventions which are described in an application for Letters Patent entitled HIGH FLOW RATE WATER SUPPLY ASSEMBLY, filed on November 24, 2003 and bearing U.S. Application No. 10/720,718, and

WHEREAS, Kohler Co., a Wisconsin corporation having a place of business at Kohler, Wisconsin, (hereinafter called "Company"), is desirous of acquiring the entire interest in said inventions throughout the United States of America and the territories thereof and for all foreign countries,

NOW, THEREFORE, for and in consideration of One Dollar (\$1.00) to us in hand paid, and other good and valuable consideration, receipt whereof is hereby acknowledged, we hereby sell, assign and transfer unto said Company, its successors and assigns, our entire right, title and interest throughout the United States of America and the territories thereof and for all foreign countries, in and to said inventions, the aforesaid application, and all other applications hereafter filed in the United States or any other country based in whole or in part on said inventions, and all Letters Patent granted upon said applications by the United States or any other country, and we do hereby authorize and request the Commissioner of Patents to issue said Letters Patent to said Company. We, to the extent possible, further grant to said Company, its successors and assigns, the right to claim for any of said applications the full benefits and priority rights of any international agreement between the United States and any foreign country or countries.

We hereby warrant that we have the full right to make the conveyance herein, and we hereby covenant that we, our heirs, legal representatives and assigns, will, when requested, communicate to said Company, its representatives, successors and assigns, all facts known respecting said inventions, execute all divisional, continuing, reissue, reexamination and foreign applications together with individual assignments therefore, make all rightful oaths, sign all lawful papers, testify in any legal proceeding and generally do everything possible to aid said Company, its successors and assigns, in the obtaining of Letters Patent.

IN TESTIMONY WHEREOF, we have hereunto set our hands and seals at the location and on the date indicated below our signatures.

WITNESSES:

Marian Bastian  
Cindy G. Lau

JEFFREY L. MUELLER  
Jeffrey L. Mueller (SEAL)  
Dated: 4/20/04

STATE OF WISCONSIN     )  
                                      ) ss.  
SHEBOYGAN COUNTY     )

Before me on this 20 day of April, 2004, came Jeffrey L. Mueller, to me known to be the person named in the foregoing Assignment and acknowledged the execution thereof to be his free act and deed.

(SEAL)

Michelle L. J.  
Notary Public, State of Wisconsin  
My Commission: 10/28/07

WITNESSES:

[Signature]  
[Signature]

JAMES R. LEWIS

[Signature] (SEAL)  
Dated: 4/20/04

STATE OF WISCONSIN )  
 ) ss.  
SHEBOYGAN COUNTY )

Before me on this 21 day of April, 2004, came James R. Lewis, to me known to be the person named in the foregoing Assignment and acknowledged the execution thereof to be his free act and deed.

(SEAL)

[Signature]  
Notary Public, State of Wisconsin  
My Commission: April 8, 2007  
Audra Barletto

WITNESSES:

[Signature]  
Peggy Wesene

STANLEY P. KAYMEN

[Signature] (SEAL)  
Dated: 4-22-04

STATE OF WISCONSIN )  
 ) ss.  
SHEBOYGAN COUNTY )

Before me on this 22 day of April, 2004, came Stanley P. Kaymen, to me known to be the person named in the foregoing Assignment and acknowledged the execution thereof to be his free act and deed.

(SEAL)

[Signature]  
Notary Public, State of Wisconsin  
My Commission: April 8, 2007  
Audra Barletto

WITNESSES:

Jennie Muckersheidt  
Dawn Buhler

JOHN H. SCHOTT

John H. Schott (SEAL)  
Dated: May 4 2004

STATE OF WISCONSIN     )  
                                      ) ss.  
SHEBOYGAN COUNTY     )

Before me on this 4<sup>th</sup> day of May, 2004, came John H. Schott, to me known to be the person named in the foregoing Assignment and acknowledged the execution thereof to be his free act and deed.

(SEAL)

Susan Freislag  
Notary Public, State of Wisconsin  
My Commission: April 4/17/05

# ASSIGNMENT

WHEREAS, I, Michael H. Ostrowski of Lake Forest, Illinois, along with Jeffrey L. Mueller of Plymouth, Wisconsin, James R. Lewis of Kohler, Wisconsin, Stanley P. Kaymen of Sheboygan, Wisconsin, and John H. Schott of Sheboygan, Wisconsin, have made certain inventions which are described in an application for Letters Patent entitled HIGH FLOW RATE WATER SUPPLY ASSEMBLY, filed on November 24, 2003 and bearing U.S. Application No. 10/720,718, and

WHEREAS, Kohler Co., a Wisconsin corporation having a place of business at Kohler, Wisconsin, (hereinafter called "Company"), is desirous of acquiring the entire interest in said inventions throughout the United States of America and the territories thereof and for all foreign countries,

NOW, THEREFORE, pursuant to the agreement (see Appendix) between myself and the Company executed by me on November 24, 2003, for and in consideration of One Dollar (\$1.00) to me in hand paid, and other good and valuable consideration, receipt whereof is hereby acknowledged, I hereby sell, assign and transfer unto said Company, its successors and assigns, my entire right, title and interest throughout the United States of America and the territories thereof and for all foreign countries, in and to said inventions, the aforesaid application, and all other applications hereafter filed in the United States or any other country based in whole or in part on said inventions, and all Letters Patent granted upon said applications by the United States or any other country, and I do hereby authorize and request the Commissioner of Patents to issue said Letters Patent to said Company. I, to the extent possible, further grant to said Company, its successors and assigns, the right to claim for any of said applications the full benefits and priority rights of any international agreement between the United States and any foreign country or countries.

I hereby warrant that I have the full right to make the conveyance herein, and I hereby covenant that I, my heirs, legal representatives and assigns, will, when requested, communicate to said Company, its representatives, successors and assigns, all facts known respecting said inventions, execute all divisional, continuing, reissue, reexamination and foreign applications together with individual assignments therefore, make all rightful oaths, sign all lawful papers, testify in any legal proceeding and generally do everything possible to aid said Company, its successors and assigns, in the obtaining of Letters Patent.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal at the location and on the date indicated below my signature.

WITNESSES:

MICHAEL H. OSTROWSKI

*Howard P. Goode*  
*Stephen M. ...*

*Michael H. Ostrowski* (SEAL)  
Dated: *April 16, 2004*

STATE OF ILLINOIS )  
Cook ) ss.  
COUNTY )

Before me on this *16* day of *April*, 2004, came Michael H. Ostrowski, to me known to be the person named in the foregoing Assignment and acknowledged the execution thereof to be his free act and deed.

(SEAL)



*Christa L. Heitkotter*  
Notary Public, State of Illinois  
My Commission: \_\_\_\_\_

## AGREEMENT

THIS AGREEMENT is entered into effective January 1, 2002 between Michael H. Ostrowski, an individual residing at 499 South Ridge Road, Lake Forest, Illinois 60045 and doing business as a sole proprietorship under the name Technology Market Consultants ("Ostrowski"), and Kohler Co., a Wisconsin corporation having a place of business at 444 Highland Drive, Kohler, Wisconsin, 53044 ("Kohler");

WHEREAS, Kohler and Ostrowski have both contributed to the invention and design of various concepts relating to quick fill systems for basins, as described in a U.S. patent application filed on November 24, 2003 and entitled HIGH FLOW RATE WATER SUPPLY ASSEMBLY (naming Ostrowski and Kohler employees as joint inventors) and in a U.S. provisional application (60/428,680 filed November 25, 2002) upon which the U.S. regular application claims priority (naming Ostrowski as an inventor), collectively the "Filings";

AND WHEREAS, Kohler and Ostrowski wish to clarify their respective rights with respect to the inventions embodied in the Filings (the "Inventions");

NOW THEREFORE, for good and value consideration, the receipt of which Kohler and Ostrowski hereby acknowledge, the parties hereby agree as follows:

1. Ostrowski hereby sells, assigns, and transfers to Kohler, its successors and assigns, the entire right, title, and interest throughout the United States of America and the territories thereof, for all foreign countries and under all international agreements, in and to his contribution to said Inventions, the aforesaid applications (including without limitation the Filings), and all other applications hereafter filed in the United States, Canada, and in any other country, or under any international agreement (e.g. PCT) based in whole or in part on said Inventions, and all Letters Patent granted upon said applications by the United States, by any other country or under any international agreement, and Ostrowski does hereby authorize and request the Commissioner of Patents and Trademarks to issue said Letters Patent to Kohler. Ostrowski further grants to Kohler, its successors, and assigns, the right to claim for any of said applications the full benefits and priority rights of any international agreement between the United States and any foreign country or countries or between any other countries.



2. Ostrowski hereby warrants that he has the full right to make the conveyance made herein, and he hereby covenants that he, his heirs, legal representatives, and assigns, will, when requested, communicate to Kohler, its representatives, successors, and assigns, all facts known respecting said Inventions, execute all corresponding divisional, continuing, reissue, reexamination, and foreign or international applications, together with individual assignments therefor, make all rightful oaths/declarations (e.g. the U.S. declaration), sign all lawful papers (e.g. powers of attorney and confirmatory assignments), testify in any legal proceeding, and generally do everything possible to aid Kohler, its successors, and assigns, in the obtaining of Letters Patent. Notwithstanding the above, except for signing lawful papers relating to the above matters and the oaths and declarations, nothing shall require Ostrowski to spend more than one hundred hours of his time after November 24, 2003 on Paragraph 2 matters, unless Kohler and Ostrowski reach agreement regarding further compensation therefor.

3. Kohler is filing the above described non-provisional U.S. application corresponding to the Inventions with a filing date of November 24, 2003. Further, a PCT application corresponding to the Inventions will be filed with a filing date of November 24, 2003. Further, Kohler commits to file a Canadian patent application based on the PCT application disclosure by May 25, 2005. In connection with the U.S. regular application Filing, Kohler has named Ostrowski as the first named inventor. In connection with this PCT application Kohler has named itself as the applicant and listed Ostrowski as the first named inventor. In connection with the Canadian application, Kohler will either name itself as the applicant, or do so plus list the inventors with Ostrowski as the first named inventor. To the extent that Kohler makes any other patent filings based on the Inventions, if it lists inventors in connection therewith, it will list Ostrowski as the first named inventor.

4. Except to the extent that Kohler shall decide to abandon prosecution of the Paragraph 3 patent applications or abandon patents issuing there from (e.g. decide not to pay maintenance fee), and Ostrowski is willing to undertake such burdens, and except for the costs of preparing the original provisional application 60/428,680 (which will automatically lapse as of November 25, 2003), Kohler shall bear all costs of preparing the Paragraph 3 patent applications, filing those

applications, prosecuting those applications, and if issued paying the governmental fees to maintain those issued patents through their normal term. However, nothing herein shall be construed to require Kohler to file any patent applications outside of the U.S. and Canada based on the PCT application or otherwise. Further, even with respect to the U.S. and Canada (or otherwise) nothing herein shall require Kohler to continue prosecution, or seek claims of any particular scope of protection, or maintain any patent once issued.

5. By April 1, 2005 Kohler will notify Ostrowski as to which PCT countries (other than Canada and the U.S.) it has designated in the PCT Request, but nevertheless has decided not to file national or regional filings corresponding thereto. For these countries and regions, if Ostrowski so requests, Ostrowski shall have the right to proceed with such national and regional filings at his own expense. Similarly, at least four weeks before implementing an irrevocable abandonment of any patent based on the Inventions which Kohler has proceeded to file (where no corresponding continuations or the like are to be pursued in the country), Kohler will notify Ostrowski thereof and provide Ostrowski with the right to proceed with such prosecutions at his expense.

6. In connection with Kohler's prosecution of patent applications corresponding to the Inventions, if due to restriction or unity requirements or for tactical reasons, Kohler believes that it is desirable in a particular jurisdiction to cancel from a patent application it is handling all claimed subject matter relating to laundry washing machines (e.g. while pursuing claims to plumbing applications), at least four weeks before such an irrevocable cancellation Kohler will notify Ostrowski thereof and provide Ostrowski the right to proceed with that subject matter at his expense in that jurisdiction, if Kohler does not wish to.

7. In each case pursuant to Paragraphs 5 and 6 where Ostrowski takes over prosecution, he shall keep Kohler promptly copied on all correspondence between him and the patent offices related thereto, make reasonable efforts to consult with Kohler regarding thereto should Kohler so desire, and always act in good faith in a manner intended not to undermine Kohler's rights in the Invention. Even in those cases where Ostrowski assumes prosecution and/or maintenance, Kohler shall remain the owner of any resulting patent rights. Kohler will act in good faith in connection with the prosecution of applications for the

Invention until such time as Kohler has complied with it obligations set forth in Paragraphs 4 through 6 hereof.

8. Kohler hereby grants to Ostrowski an exclusive, non-transferable, but sublicenseable, royalty-free license, to the Inventions in the field of automated clothes washing machines, with respect to each country/region in which a patent issues based on the Inventions covering that subject matter to Kohler. This Paragraph 8 right shall not be construed to cover laundry tubs which do not have mechanized agitators. This Paragraph 8 license right shall begin as of November 24, 2003. KOHLER MAKES NO WARRANTIES OF VALIDITY OR NONINFRINGEMENT WITH RESPECT TO THIS LICENSE.

9. Subject to the royalty payments described below, Kohler hereby also grants to Ostrowski a non-exclusive, non-transferable, but sublicenseable, license, for all other applicable fields besides that described in Paragraph 8, covered by the claims of patents issued based on the Inventions in the U.S. and Canada. This license right shall begin as of November 24, 2003. KOHLER MAKES NO WARRANTIES OF VALIDITY OR NONINFRINGEMENT WITH RESPECT TO THIS LICENSE.

10. Nothing herein shall require Kohler to enforce any patent rights it may come to own as a result of the Inventions against third parties. Except as otherwise provided in this paragraph, Kohler shall have the sole and exclusive right to determine whether any third parties who appear to be infringing patents it owns based on the Inventions are pursued, and any such enforcement shall be at its cost, expense and risk, and any recovery shall be solely for its own benefit. However, in the event that any infringement of a patent right owned by Kohler based on the Inventions occurs in the field of automated clothes washing machines, upon learning of that the parties shall promptly consult with each other once they learn of the situation. After consulting in good faith with Kohler regarding the matter, and taking into account Kohler's concerns regarding the impact of any such enforcement against rights outside of the automated clothes washing machine field, Ostrowski shall have the sole and exclusive right to pursue infringements based on the Inventions with respect to the automated clothes washing machine field, at his cost, risk and expense, and for his own benefit. Should he decide to do so, he shall hold Kohler harmless from any costs, losses, expenses, and attorneys fees which result from his doing so. In any event, in connection with any enforcement activity by Ostrowski pursuant to this paragraph, Ostrowski commits to act in good faith and make

reasonable endeavors not to adversely impact Kohler's rights as a result of the litigation.

11. In consideration of the Paragraph 9 license, Ostrowski hereby agrees to pay Kohler the following sums for exercise of that right in the U.S. and Canada:

(a) 3% of any gross revenues from sales by Ostrowski or an entity he owns more than 20% of, received by Ostrowski or such entities, where the sales are by them of other than clothes washing machines or components thereof that would either:

(i) constitute an infringement of a patent right described herein absent the Paragraph 9 license; or

(ii) (in a country where a patent application/PCT application has applicability and is still pending, but a patent has not yet issued based on the Inventions, and the sales took place prior to November 25, 2007), constitute an infringement of a patent right described herein absent a Paragraph 9 license if the claim were to have been in an issued unexpired patent applicable in that jurisdiction; and

(b) 50% of any other revenues received by Ostrowski or an entity he owns any interest in, where the receipts are due to sublicensing revenues or other commercial exploitations with regard to other than clothes washing machines or components thereof that would either:

(i) constitute an infringement of a patent right described herein absent the Paragraph 9 license; or

(ii) (in a country where a patent application/PCT application has applicability and is still pending, but a patent has not yet issued based on the Inventions, and the sales took place prior to November 25, 2007), constitute an infringement of a patent right described herein absent a Paragraph 9 license if the claim were to have been in an issued patent applicable in that jurisdiction.

In each case where Ostrowski exercises a Paragraph 9 right by sublicensing, he shall insure that his commercial deal with his sublicensee is such as to require the payment to Ostrowski of at least 3% of the value added portion of the sublicensee's sales which the Invention provides.

12. For purposes of clarifying Paragraph 11:

(a) where an issued claim has been finally declared invalid or otherwise unenforceable by a final decision of a court of competent jurisdiction and that decision has become final after the completion of all appeals, no further payments under Paragraph 11 shall be owed with respect to that claim, albeit nothing herein shall require any repayment of sums previously made as a result of such claim; and

(b) if Kohler acquires the assets of a sublicensee of Ostrowski, Kohler's use of those assets outside of the field of clothes washing machines to practice the Inventions shall be deemed pursuant to Kohler's residual rights and not be subject to payments to Ostrowski deriving from any agreements Ostrowski may have had with the sublicensee.

13. Ostrowski shall provide Kohler with reports regarding Paragraph 11 payments owed on a calendar quarterly basis, within 30 days after each calendar quarter for receipts and activity in that quarter. The reports shall be accompanied by full payment for all Paragraph 11 payments owed. Further it shall contain explanatory details regarding the source and nature of the payments. Any license or other arrangements with third parties shall waive confidentiality to the extent of permitting Ostrowski to fully explain to Kohler the basis for the Paragraph 11 payments. For any period in which Ostrowski has not fully and timely paid all Paragraph 11 payments owed, Ostrowski shall be prohibited from any further sublicensing or commercialization of the rights granted to him hereunder until such payments are made, and any activity during the interim period may be considered to be an infringement of the rights owned by Kohler if they would be an infringement if Kohler fully owned the Paragraph 9 rights.

14. Ostrowski shall keep, and shall require his licensees to keep, accurate books and records of account in sufficient detail so that the Paragraph 11 payments may be readily audited by Kohler should it wish to do so. Each such record shall be maintained for at least 3 years after each is created. Any designee auditing accountant authorized in writing by Kohler shall be given access by Ostrowski to such books and records at any reasonable time during normal business hours, including for making photocopies thereof.

15. Within 10 days after Ostrowski sublicensing any rights hereunder, he shall notify Kohler regarding the licensee and the general nature of the license. At any time, Kohler shall have

the right to reacquire any Paragraph 9 rights that Ostrowski has not previously notified Kohler in writing of as having been sublicensed by Ostrowski (leaving Ostrowski with just Paragraph 8 rights and any sublicenses under Paragraph 9 rights previously granted by him of which Kohler has received such notice), if Kohler commits in writing to pay Ostrowski a 1% royalty on the value added portion relating to the Invention for sales by Kohler with regard to Kohler's exercise of issued Invention-based patent rights in Canada and/or the U.S., on Kohler's sales of products outside of the laundry washing machine field, up to a maximum total of \$50,000 (U.S.). After/if the \$50,000 level is reached, Kohler shall owe nothing further for the rescission of such rights and its exercise of rights outside of the laundry washing machine field.

16. Ostrowski hereby agrees to indemnify, defend and hold harmless Kohler from any and all product liability claims and other liability incurred by Kohler as a result of Ostrowski licensing or exploiting the patent rights described herein.

17. Kohler hereby agrees to indemnify, defend and hold harmless Ostrowski from any and all product liability claims and other liability incurred by Ostrowski as a result of Kohler licensing or exploiting the patent rights described herein, except to the extent of matters deriving from Ostrowski licensing or exploiting patent rights described herein, or where due to Ostrowski breaching a warranty or agreement hereunder.

18. Nothing herein is intended to relieve Ostrowski from any confidentiality obligations owed to Kohler by virtue of other agreements. However, between November 25, 2003 and May 25, 2004 Ostrowski may disclose the content of the Filings to potential sublicensees provided they are under confidentiality agreements not to further disclose the information prior to May 25, 2004. On or after May 25, 2004 Ostrowski shall not be bound by confidentiality obligations with respect to the content of the Filings. In any event, except to the extent needed to enforce their obligations hereunder, a party shall keep confidential any commercial information a party discloses to the other as part of the royalty reporting processes described above.

19. Kohler shall have the right to assign its rights hereunder to a successor to its entire plumbing business, or to an affiliate, or for financing purposes, without prejudice to Ostrowski's rights as against Kohler with respect to Kohler's obligations. Ostrowski shall have no right to assign his rights

or obligations hereunder, albeit he shall be permitted to sublicense certain rights as noted above.

20. Ostrowski shall exercise best efforts to insure that any licensing or commercial activity that Ostrowski undertakes in connection with the Inventions is not done in a manner that would harm the goodwill or reputation of Kohler. Further, Ostrowski shall insure that he and his sublicensees shall include patent markings specified by Kohler in connection with products commercialized under license relating to the Inventions.

21. Nothing herein is intended to grant Ostrowski the right to publicly use (or have any sublicensee publicly use) the name of Kohler in connection with exploiting the Inventions, and Ostrowski shall insure that this does not take place. While Kohler shall be entitled to make reference to Ostrowski in connection with seeking and maintaining the patent rights relating to the Inventions, nothing herein shall permit Kohler to use Ostrowski's name in connecting with marketing activities associated with exploiting the Inventions.

22. Ostrowski hereby warrants that nothing claimed in the Filings is currently known by him to have been invented by others besides him and Kohler employees.

23. Any notice or payment required or permitted to be given by a party under this Agreement shall be presumed to be properly given if sent by registered or certified mail, with proper postage prepaid, to the other party at their address set forth in the first paragraph of this Agreement, three days after the date of mailing. Any party may change its notice address for the purpose of this Agreement by giving the other party written notice of such change.

24. This Agreement represents and expresses the entire Agreement of the parties hereto relating to this subject matter, and supercedes all prior discussions and agreements relating thereto. It may not be modified except by an agreement in writing, signed by the parties below. However, nothing herein is intended to rescind any earlier consulting, confidentiality or other agreements between the parties not directly related to the Inventions.

25. Kohler is, and shall remain at all times hereafter unless the parties otherwise agree in writing, an independent contractor with respect to Ostrowski. Nothing contained herein

shall be construed as constituting Kohler as an employer, partner or joint venturer of Ostrowski for any purpose whatsoever, nor permit Ostrowski to bind Kohler in any agreements with any third parties.


26. This Agreement shall be governed under the internal laws of the State of Wisconsin, without reference to choice of law principles.

27. This Agreement may be executed in counterparts, with each party signing one of the counterparts and forwarding a copy thereof directly or by a reproduction thereof to the other. Such method of execution shall be deemed the equivalent as if a single document had been executed by both parties in person.

Agreed:

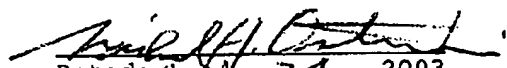
KOHLER CO.

By:

  
Dated: NOV. 21<sup>st</sup>, 2003

MICHAEL H. OSTROWSKI

Dated:

  
Nov. 24, 2003



### CONFIRMATORY ASSIGNMENT

WHEREAS, Michael H. Ostrowski of Lake Forest, Illinois, Jeffrey L. Mueller of Plymouth, Wisconsin, James R. Lewis of Kohler, Wisconsin, Stanley P. Kaymen of Sheboygan, Wisconsin, and John H. Schott of Sheboygan, Wisconsin (the "Inventors") have made certain inventions which are described in an application for Letters Patent of the United States entitled HIGH FLOW RATE WATER SUPPLY ASSEMBLY filed November 24, 2003, as U.S. Application No. 10/720,718 preparatory to obtaining United States Letters Patent therefor; and

WHEREAS, during the period when Michael H. Ostrowski made a portion of the invention claimed therein he was retained by Technology Market Consultants, an entity having a place of business at 707 Skokie Boulevard, Northbrook, Illinois 60062 ("Consultant"); and

WHEREAS, Kohler Co. ("Company"), a Wisconsin corporation having a place of business at Kohler, Wisconsin, is desirous of confirming that it has acquired the entire interest in said inventions worldwide (herein "worldwide" includes throughout the United States of America and its territories, throughout all other countries and under all international agreements) pursuant to the assignment to it from the Inventors;

NOW THEREFORE, pursuant to the agreement (see Appendix) between Inventor Ostrowski and the Company executed by Inventor Ostrowski on November 24, 2003, for and in consideration of One Dollar (\$1.00) paid by Company to Consultant, and other good and valuable consideration receipt whereof is hereby acknowledged:

Consultant confirms that to the extent of the contribution of Inventor Ostrowski, the entire right, title and interest worldwide in and to said inventions, the aforesaid application, all other applications hereafter filed based in whole or in part on said inventions, and all Letters Patent granted upon said applications have been sold, assigned and transferred to the Company and its successors and assigns. Further Consultant hereby authorizes and requests the Commissioner of Patents and Trademarks to issue said Letters Patent to said Company. Consultant further grants to said Company, its successors and assigns, the right to claim for any of said applications the full benefits and priority rights of any international agreement between the United States and any foreign country or countries or between any other countries.

IN TESTIMONY WHEREOF, the undersigned has hereunto set his hand and seal on behalf of and pursuant to the authority of Consultant on this 16 day of April, 2004.

WITNESSES:

Harold C. Goode  
Stephen M. M...

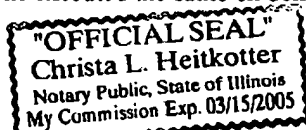
CONSULTANT:

By: MICHAEL H. OSTROWSKI (SEAL)

Title: PRESIDENT

STATE OF Illinois )  
COUNTY OF COOK )SS

Before me on this 16 day of April, 2004, personally appeared the above-identified representative of Consultant who was personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she/he executed the same on behalf of Consultant as the free act and deed of Consultant.



QBMR030299.000703498381.1

Christa L. Heitkotter (SEAL)  
Notary Public, State of Illinois  
My Commission expires: \_\_\_\_\_

## AGREEMENT

THIS AGREEMENT is entered into effective January 1, 2002 between Michael H. Ostrowski, an individual residing at 499 South Ridge Road, Lake Forest, Illinois 60045 and doing business as a sole proprietorship under the name Technology Market Consultants ("Ostrowski"), and Kohler Co., a Wisconsin corporation having a place of business at 444 Highland Drive, Kohler, Wisconsin, 53044 ("Kohler");

WHEREAS, Kohler and Ostrowski have both contributed to the invention and design of various concepts relating to quick fill systems for basins, as described in a U.S. patent application filed on November 24, 2003 and entitled HIGH FLOW RATE WATER SUPPLY ASSEMBLY (naming Ostrowski and Kohler employees as joint inventors) and in a U.S. provisional application (60/428,680 filed November 25, 2002) upon which the U.S. regular application claims priority (naming Ostrowski as an inventor), collectively the "Filings";

AND WHEREAS, Kohler and Ostrowski wish to clarify their respective rights with respect to the inventions embodied in the Filings (the "Inventions");

NOW THEREFORE, for good and value consideration, the receipt of which Kohler and Ostrowski hereby acknowledge, the parties hereby agree as follows:

1. Ostrowski hereby sells, assigns, and transfers to Kohler, its successors and assigns, the entire right, title, and interest throughout the United States of America and the territories thereof, for all foreign countries and under all international agreements, in and to his contribution to said Inventions, the aforesaid applications (including without limitation the Filings), and all other applications hereafter filed in the United States, Canada, and in any other country, or under any international agreement (e.g. PCT) based in whole or in part on said Inventions, and all Letters Patent granted upon said applications by the United States, by any other country or under any international agreement, and Ostrowski does hereby authorize and request the Commissioner of Patents and Trademarks to issue said Letters Patent to Kohler. Ostrowski further grants to Kohler, its successors, and assigns, the right to claim for any of said applications the full benefits and priority rights of any international agreement between the United States and any foreign country or countries or between any other countries.

2. Ostrowski hereby warrants that he has the full right to make the conveyance made herein, and he hereby covenants that he, his heirs, legal representatives, and assigns, will, when requested, communicate to Kohler, its representatives, successors, and assigns, all facts known respecting said Inventions, execute all corresponding divisional, continuing, reissue, reexamination, and foreign or international applications, together with individual assignments therefor, make all rightful oaths/declarations (e.g. the U.S. declaration), sign all lawful papers (e.g. powers of attorney and confirmatory assignments), testify in any legal proceeding, and generally do everything possible to aid Kohler, its successors, and assigns, in the obtaining of Letters Patent. Notwithstanding the above, except for signing lawful papers relating to the above matters and the oaths and declarations, nothing shall require Ostrowski to spend more than one hundred hours of his time after November 24, 2003 on Paragraph 2 matters, unless Kohler and Ostrowski reach agreement regarding further compensation therefor.

3. Kohler is filing the above described non-provisional U.S. application corresponding to the Inventions with a filing date of November 24, 2003. Further, a PCT application corresponding to the Inventions will be filed with a filing date of November 24, 2003. Further, Kohler commits to file a Canadian patent application based on the PCT application disclosure by May 25, 2005. In connection with the U.S. regular application Filing, Kohler has named Ostrowski as the first named inventor. In connection with this PCT application Kohler has named itself as the applicant and listed Ostrowski as the first named inventor. In connection with the Canadian application, Kohler will either name itself as the applicant, or do so plus list the inventors with Ostrowski as the first named inventor. To the extent that Kohler makes any other patent filings based on the Inventions, if it lists inventors in connection therewith, it will list Ostrowski as the first named inventor.

4. Except to the extent that Kohler shall decide to abandon prosecution of the Paragraph 3 patent applications or abandon patents issuing there from (e.g. decide not to pay maintenance fee), and Ostrowski is willing to undertake such burdens, and except for the costs of preparing the original provisional application 60/428,680 (which will automatically lapse as of November 25, 2003), Kohler shall bear all costs of preparing the Paragraph 3 patent applications, filing those

applications, prosecuting those applications, and if issued paying the governmental fees to maintain those issued patents through their normal term. However, nothing herein shall be construed to require Kohler to file any patent applications outside of the U.S. and Canada based on the PCT application or otherwise. Further, even with respect to the U.S. and Canada (or otherwise) nothing herein shall require Kohler to continue prosecution, or seek claims of any particular scope of protection, or maintain any patent once issued.

5. By April 1, 2005 Kohler will notify Ostrowski as to which PCT countries (other than Canada and the U.S.) it has designated in the PCT Request, but nevertheless has decided not to file national or regional filings corresponding thereto. For these countries and regions, if Ostrowski so requests, Ostrowski shall have the right to proceed with such national and regional filings at his own expense. Similarly, at least four weeks before implementing an irrevocable abandonment of any patent based on the Inventions which Kohler has proceeded to file (where no corresponding continuations or the like are to be pursued in the country), Kohler will notify Ostrowski thereof and provide Ostrowski with the right to proceed with such prosecutions at his expense.

6. In connection with Kohler's prosecution of patent applications corresponding to the Inventions, if due to restriction or unity requirements or for tactical reasons, Kohler believes that it is desirable in a particular jurisdiction to cancel from a patent application it is handling all claimed subject matter relating to laundry washing machines (e.g. while pursuing claims to plumbing applications), at least four weeks before such an irrevocable cancellation Kohler will notify Ostrowski thereof and provide Ostrowski the right to proceed with that subject matter at his expense in that jurisdiction, if Kohler does not wish to.

7. In each case pursuant to Paragraphs 5 and 6 where Ostrowski takes over prosecution, he shall keep Kohler promptly copied on all correspondence between him and the patent offices related thereto, make reasonable efforts to consult with Kohler regarding thereto should Kohler so desire, and always act in good faith in a manner intended not to undermine Kohler's rights in the Invention. Even in those cases where Ostrowski assumes prosecution and/or maintenance, Kohler shall remain the owner of any resulting patent rights. Kohler will act in good faith in connection with the prosecution of applications for the

Invention until such time as Kohler has complied with it obligations set forth in Paragraphs 4 through 6 hereof.

8. Kohler hereby grants to Ostrowski an exclusive, non-transferable, but sublicenseable, royalty-free license, to the Inventions in the field of automated clothes washing machines, with respect to each country/region in which a patent issues based on the Inventions covering that subject matter to Kohler. This Paragraph 8 right shall not be construed to cover laundry tubs which do not have mechanized agitators. This Paragraph 8 license right shall begin as of November 24, 2003. KOHLER MAKES NO WARRANTIES OF VALIDITY OR NONINFRINGEMENT WITH RESPECT TO THIS LICENSE.

9. Subject to the royalty payments described below, Kohler hereby also grants to Ostrowski a non-exclusive, non-transferable, but sublicenseable, license, for all other applicable fields besides that described in Paragraph 8, covered by the claims of patents issued based on the Inventions in the U.S. and Canada. This license right shall begin as of November 24, 2003. KOHLER MAKES NO WARRANTIES OF VALIDITY OR NONINFRINGEMENT WITH RESPECT TO THIS LICENSE.

10. Nothing herein shall require Kohler to enforce any patent rights it may come to own as a result of the Inventions against third parties. Except as otherwise provided in this paragraph, Kohler shall have the sole and exclusive right to determine whether any third parties who appear to be infringing patents it owns based on the Inventions are pursued, and any such enforcement shall be at its cost, expense and risk, and any recovery shall be solely for its own benefit. However, in the event that any infringement of a patent right owned by Kohler based on the Inventions occurs in the field of automated clothes washing machines, upon learning of that the parties shall promptly consult with each other once they learn of the situation. After consulting in good faith with Kohler regarding the matter, and taking into account Kohler's concerns regarding the impact of any such enforcement against rights outside of the automated clothes washing machine field, Ostrowski shall have the sole and exclusive right to pursue infringements based on the Inventions with respect to the automated clothes washing machine field, at his cost, risk and expense, and for his own benefit. Should he decide to do so, he shall hold Kohler harmless from any costs, losses, expenses, and attorneys fees which result from his doing so. In any event, in connection with any enforcement activity by Ostrowski pursuant to this paragraph, Ostrowski commits to act in good faith and make

reasonable endeavors not to adversely impact Kohler's rights as a result of the litigation.

11. In consideration of the Paragraph 9 license, Ostrowski hereby agrees to pay Kohler the following sums for exercise of that right in the U.S. and Canada:

(a) 3% of any gross revenues from sales by Ostrowski or an entity he owns more than 20% of, received by Ostrowski or such entities, where the sales are by them of other than clothes washing machines or components thereof that would either:

(i) constitute an infringement of a patent right described herein absent the Paragraph 9 license; or

(ii) (in a country where a patent application/PCT application has applicability and is still pending, but a patent has not yet issued based on the Inventions, and the sales took place prior to November 25, 2007), constitute an infringement of a patent right described herein absent a Paragraph 9 license if the claim were to have been in an issued unexpired patent applicable in that jurisdiction; and

(b) 50% of any other revenues received by Ostrowski or an entity he owns any interest in, where the receipts are due to sublicensing revenues or other commercial exploitations with regard to other than clothes washing machines or components thereof that would either:

(i) constitute an infringement of a patent right described herein absent the Paragraph 9 license; or

(ii) (in a country where a patent application/PCT application has applicability and is still pending, but a patent has not yet issued based on the Inventions, and the sales took place prior to November 25, 2007), constitute an infringement of a patent right described herein absent a Paragraph 9 license if the claim were to have been in an issued patent applicable in that jurisdiction.

In each case where Ostrowski exercises a Paragraph 9 right by sublicensing, he shall insure that his commercial deal with his sublicensee is such as to require the payment to Ostrowski of at least 3% of the value added portion of the sublicensee's sales which the Invention provides.

12. For purposes of clarifying Paragraph 11:

(a) where an issued claim has been finally declared invalid or otherwise unenforceable by a final decision of a court of competent jurisdiction and that decision has become final after the completion of all appeals, no further payments under Paragraph 11 shall be owed with respect to that claim, albeit nothing herein shall require any repayment of sums previously made as a result of such claim; and

(b) if Kohler acquires the assets of a sublicensee of Ostrowski, Kohler's use of those assets outside of the field of clothes washing machines to practice the Inventions shall be deemed pursuant to Kohler's residual rights and not be subject to payments to Ostrowski deriving from any agreements Ostrowski may have had with the sublicensee.

13. Ostrowski shall provide Kohler with reports regarding Paragraph 11 payments owed on a calendar quarterly basis, within 30 days after each calendar quarter for receipts and activity in that quarter. The reports shall be accompanied by full payment for all Paragraph 11 payments owed. Further it shall contain explanatory details regarding the source and nature of the payments. Any license or other arrangements with third parties shall waive confidentiality to the extent of permitting Ostrowski to fully explain to Kohler the basis for the Paragraph 11 payments. For any period in which Ostrowski has not fully and timely paid all Paragraph 11 payments owed, Ostrowski shall be prohibited from any further sublicensing or commercialization of the rights granted to him hereunder until such payments are made, and any activity during the interim period may be considered to be an infringement of the rights owned by Kohler if they would be an infringement if Kohler fully owned the Paragraph 9 rights.

14. Ostrowski shall keep, and shall require his licensees to keep, accurate books and records of account in sufficient detail so that the Paragraph 11 payments may be readily audited by Kohler should it wish to do so. Each such record shall be maintained for at least 3 years after each is created. Any designee auditing accountant authorized in writing by Kohler shall be given access by Ostrowski to such books and records at any reasonable time during normal business hours, including for making photocopies thereof.

15. Within 10 days after Ostrowski sublicensing any rights hereunder, he shall notify Kohler regarding the licensee and the general nature of the license. At any time, Kohler shall have

the right to reacquire any Paragraph 9 rights that Ostrowski has not previously notified Kohler in writing of as having been sublicensed by Ostrowski (leaving Ostrowski with just Paragraph 8 rights and any sublicenses under Paragraph 9 rights previously granted by him of which Kohler has received such notice), if Kohler commits in writing to pay Ostrowski a 1% royalty on the value added portion relating to the Invention for sales by Kohler with regard to Kohler's exercise of issued Invention-based patent rights in Canada and/or the U.S., on Kohler's sales of products outside of the laundry washing machine field, up to a maximum total of \$50,000 (U.S.). After/if the \$50,000 level is reached, Kohler shall owe nothing further for the rescission of such rights and its exercise of rights outside of the laundry washing machine field.

16. Ostrowski hereby agrees to indemnify, defend and hold harmless Kohler from any and all product liability claims and other liability incurred by Kohler as a result of Ostrowski licensing or exploiting the patent rights described herein.

17. Kohler hereby agrees to indemnify, defend and hold harmless Ostrowski from any and all product liability claims and other liability incurred by Ostrowski as a result of Kohler licensing or exploiting the patent rights described herein, except to the extent of matters deriving from Ostrowski licensing or exploiting patent rights described herein, or where due to Ostrowski breaching a warranty or agreement hereunder.

18. Nothing herein is intended to relieve Ostrowski from any confidentiality obligations owed to Kohler by virtue of other agreements. However, between November 25, 2003 and May 25, 2004 Ostrowski may disclose the content of the Filings to potential sublicensees provided they are under confidentiality agreements not to further disclose the information prior to May 25, 2004. On or after May 25, 2004 Ostrowski shall not be bound by confidentiality obligations with respect to the content of the Filings. In any event, except to the extent needed to enforce their obligations hereunder, a party shall keep confidential any commercial information a party discloses to the other as part of the royalty reporting processes described above.

19. Kohler shall have the right to assign its rights hereunder to a successor to its entire plumbing business, or to an affiliate, or for financing purposes, without prejudice to Ostrowski's rights as against Kohler with respect to Kohler's obligations. Ostrowski shall have no right to assign his rights



or obligations hereunder, albeit he shall be permitted to sublicense certain rights as noted above.

20. Ostrowski shall exercise best efforts to insure that any licensing or commercial activity that Ostrowski undertakes in connection with the Inventions is not done in a manner that would harm the goodwill or reputation of Kohler. Further, Ostrowski shall insure that he and his sublicensees shall include patent markings specified by Kohler in connection with products commercialized under license relating to the Inventions.

21. Nothing herein is intended to grant Ostrowski the right to publicly use (or have any sublicensee publicly use) the name of Kohler in connection with exploiting the Inventions, and Ostrowski shall insure that this does not take place. While Kohler shall be entitled to make reference to Ostrowski in connection with seeking and maintaining the patent rights relating to the Inventions, nothing herein shall permit Kohler to use Ostrowski's name in connecting with marketing activities associated with exploiting the Inventions.

22. Ostrowski hereby warrants that nothing claimed in the Filings is currently known by him to have been invented by others besides him and Kohler employees.

23. Any notice or payment required or permitted to be given by a party under this Agreement shall be presumed to be properly given if sent by registered or certified mail, with proper postage prepaid, to the other party at their address set forth in the first paragraph of this Agreement, three days after the date of mailing. Any party may change its notice address for the purpose of this Agreement by giving the other party written notice of such change.

24. This Agreement represents and expresses the entire Agreement of the parties hereto relating to this subject matter, and supercedes all prior discussions and agreements relating thereto. It may not be modified except by an agreement in writing, signed by the parties below. However, nothing herein is intended to rescind any earlier consulting, confidentiality or other agreements between the parties not directly related to the Inventions.

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Agreed:

KOHLER CO.

By: 

Dated: Nov. 21st, 2003

MICHAEL H. OSTROWSKI

  
Dated: Nov. 24, 2003